

THE PRESIDENT: Delegate Gallagher.

DELEGATE GALLAGHER: The B&O has already decided to merge upon the completion of the formality of filing articles of merger, and it shall have lost the tax exemption at that time. That is the situation under the present law, even if this provision and constitution is never passed. That same situation, hopefully, will occur after the passage of this constitution, because it is designed to achieve the same effect.

THE PRESIDENT: Delegate Gleason, Delegate Gallagher's time has expired. Do you have a further question?

DELEGATE GLEASON: I want to raise a further question. A law can be changed, but a constitutional provision is a different thing, and it is this aspect that bothers me.

THE PRESIDENT: Delegate Gallagher.

DELEGATE GALLAGHER: Well, just a brief review: The B&O got this exemption by virtue of an 1826 charter grant, and the General Assembly has been trying to put the B&O back in the same status with all other corporations of like character since 1851.

The Constitutions of 1851, 1864 and 1867 had provisions to accomplish the identical result, except the last sentence was added in 1891 by constitutional amendment.

All we do here is keep the gain and the legal rights, responsibilities and privileges on both sides after the passing of the constitutional amendment as it existed prior to the passage.

THE PRESIDENT: Is there any further discussion?

Delegate Chabot.

DELEGATE CHABOT: Mr. Chairman, would it be in order for me to ask another question of Delegate Gallagher?

THE PRESIDENT: Delegate Gallagher's time has expired. Is it just one question?

DELEGATE CHABOT: I hope it is one question.

THE PRESIDENT: Delegate Gallagher, do you yield for one more question?

DELEGATE GALLAGHER: Yes, sir.

THE PRESIDENT: Delegate Chabot.

DELEGATE CHABOT: When this amendment was originally enacted any

right, privilege or advantage that may have been granted before that date could nevertheless be taken advantage of by the B&O. If we are intending to preserve the same situation, I wonder whether or not we are in the position now of saying that a right granted by a pre-1891 statute, the exercise of such a right which would not have caused them to lose the tax exemption before this provision, would now cause them to lose the tax exemption?

DELEGATE GALLAGHER: I would say we have just as much a right to do so in 1968 as the people had in 1891 when they added the grandfather clause, and you take advantage of the privileges, the doing of that act constitutes a surrender of the tax exemption. The State does not force the B&O to do it. They say if you do, this is the price. The B&O has decided to. We are not interfering with the contractual obligation. We are saying what has been agreed upon if formalized, will result in the same loss of exemption that would have occurred under the present Constitution.

THE PRESIDENT: All of this discussion is a repetition of the very full discussion that occurred in the Committee of the Whole, and the questions indicate that we are losing sight completely of the history that was given by the committee chairman, by Delegate Henderson and others at that time.

The significant thing is that the present constitutional provision grows out of the so-called settlement act of 1890 which was a compromise agreed upon by the Baltimore and Ohio Railroad, and the State of Maryland, and embodied in the legislation and the constitutional provision. All that the section seeks to do is to continue the effect of that act as embodied in the Constitution of 1867. The amendment that is suggested now, Amendment No. 3, in no way alters this situation, it merely is continuing the same effect, the additional words are necessary simply because when you say hereafter in a Constitution in 1967 you mean after 1967, whereas the intent is that it is after a much earlier date.

Is there any further discussion?

Delegate Chabot.

DELEGATE CHABOT: I will make it in the form of a statement, not a question, since I promised to ask only one question. However, in 1891 what the State did was to say not that if you take advantage of any of the corporate laws, but only if you take advantage of new grants or new privileges or advantages, those granted